

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JUSTIN C. PONCE,

Petitioner,

v.

GARY CUTLER,

Respondent.

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1:23-CV-0082-RP

ORDER

Before the Court is Petitioner Justin C. Ponce’s (“Ponce”) Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, (Dkt. 1). The case was referred to United States Magistrate Judge Dustin Howell for findings and recommendations, pursuant to 28 U.S.C. § 636(b). Judge Howell filed his report and recommendation on March 31, 2023. (Dkt. 6). In his report and recommendation, Judge Howell recommends that the Court dismiss Ponce’s Petition for Writ of Habeas Corpus for want of jurisdiction premised on failure to exhaust state court remedies. (*Id.* at 5). Ponce received the report and recommendation no later than April 10, 2023. (Dkt. 8). As of the date of this order, Ponce has not filed any objections to the report and recommendation.

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to a magistrate judge’s proposed findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure de novo review by the district court. When no objections are timely filed, a district court can review the magistrate’s report and recommendation for clear error. *See* Fed. R. Civ. P. 72 advisory committee’s note (“When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”).

Because no party has filed timely objections, the Court reviews the report and recommendation for clear error. Having done so and finding no clear error, the Court accepts and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge, (Dkt. 6), is **ADOPTED. IT IS ORDERED** that Ponce's Petition for Writ of Habeas Corpus, (Dkt. 1), is **DISMISSED WITHOUT PREJUDICE** for want of jurisdiction premised on failure to exhaust state court remedies.

It is **FURTHER ORDERED** that a certificate of appealability is **DENIED**.

SIGNED on May 15, 2023.

A handwritten signature in blue ink, appearing to read "Robert Pitman", is written above a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE